

FILED

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

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CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

Civil Action No.:

1:11CV448  
(LO/TRJ)

**COMPLAINT**

**JURY TRIAL DEMANDED**

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ISLAND INTELLECTUAL PROPERTY LLC,

Plaintiff,

v.

CLEARVIEW CORRESPONDENT SERVICES,  
LLC, SCOTT & STRINGFELLOW, LLC, and  
BRANCH BANKING & TRUST COMPANY,

Defendants.  
----- -X

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Island Intellectual Property LLC ("Island IP" or "Plaintiff"), by its attorneys Walsh, Colucci, Lubeley, Emrich & Walsh, P.C. and Amster, Rothstein & Ebenstein LLP, for its complaint against Defendants Clearview Correspondent Services, LLC ("Clearview"), Scott & Stringfellow, LLC ("S&S") and Branch Banking & Trust Company ("BB&T") (collectively, "Defendants") allege as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising out of Defendants' infringement of U.S. Patent No. 7,933,821, issued on April 26, 2011, and entitled "Systems and Methods for Administering Return Sweep Accounts" ("the '821 Patent"), generally relating to computerized account management techniques used with insured deposit accounts.

2. Specifically, this complaint asserts claims against Defendants arising from their infringement of at least Claims 19 and 28 of the '821 Patent.

3. A true and correct copy of the '821 Patent is attached hereto as Exhibit A.

THE PARTIES

4. Plaintiff Island IP is a limited liability company, organized and existing under the laws of the State of Delaware. The principal place of business of Island IP is located at 1250 Broadway, Thirty-Second Floor, New York, NY 10001.

5. Defendant Clearview is a limited liability company organized and existing under the laws of the State of Delaware. The principal place of business of Clearview is located at 8006 Discovery Drive, Richmond, VA 23229-8600, within this district.

6. Defendant S&S is a limited liability company organized and existing under the laws of the State of Virginia. The principal place of business of S&S is located at Riverfront Plaza-West Tower, 901 East Byrd Street, Richmond, VA 23219, within this district.

7. Defendant BB&T is a company organized and existing under the laws of the State of North Carolina. The principal place of business of BB&T is located at 200 W. 2<sup>nd</sup> Street, Winston-Salem, NC 27101. Upon information and belief, BB&T has offices at 909 East Main Street and 2 South Ninth Street, Richmond, VA, 23219, within this district.

JURISDICTION AND VENUE

8. This is a civil action for patent infringement arising under the United States patent statutes, 35 U.S.C. § 1 *et seq.*

9. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

10. Defendant Clearview is subject to this Court's personal jurisdiction because it has done substantial business in this judicial district, including offering and operating the accused insured deposit program within this State and in this District. Further, Defendant Clearview has designated an agent for service of process in the State of Virginia.

11. Defendant S&S is subject to this Court's personal jurisdiction because it is organized under the laws of the State of Virginia and has designated an agent for service of process in the State of Virginia. Further, Defendant S&S is subject to this Court's personal jurisdiction because it has done substantial business in this judicial district, including offering and operating the accused insured deposit program within this State and in this District.

12. Defendant BB&T is subject to this Court's personal jurisdiction because it has done substantial business in this judicial district, including operating financial centers within this State and in this District, acting as a program bank for Defendant S&S' accused insured deposit program which is operated within this State and in this District, and offering as a participating bank within its own accused insured deposit program, Access National Bank which is located in Reston, Virginia within this State and in this District. Defendant BB&T also has offices at 909 East Main Street and 2 South Ninth Street in Richmond, Virginia, 12010 Sunset Hills Road, Suite 700, in Reston, Virginia and 8200 Greensboro Drive, Suite 825, McLean, Virginia 22102. Further, Defendant BB&T has designated an agent for service of process in the State of Virginia.

13. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

#### FACTUAL BACKGROUND

14. Island IP is an industry leader in providing cash management and monetary regulation systems.

15. The principals of Double Rock Corporation ("Double Rock"), the corporate parent of Island IP, developed an innovative product known as "insured deposits," which provided financial service institutions with the ability to offer customers FDIC-insured, interest-bearing demand accounts, with unlimited checking.

16. Since Double Rock introduced their first insured deposit product, the principals of Double Rock developed many improvements to the insured deposits product.

17. In a typical insured deposit product available today, client funds from one or more source institutions are swept into one or more FDIC-insured and interest-bearing aggregated accounts at one or more program banks.

18. When more than one program bank is used, client funds may obtain “enhanced FDIC insurance”. In other words, client funds may be insured for more than the FDIC limits placed on funds held in a single FDIC insured institution.

19. One improvement, developed by the principals of Double Rock, relates to providing banking institutions (like banks and broker-dealers affiliated with banks) offering this kind of insured deposit product with the ability to retain insured deposit assets on the books of a bank within the infrastructure of the banking institution (like the same bank or an affiliated bank), yet provide for excess FDIC insurance by using additional program banks which are unaffiliated with the banking institution.

#### THE PATENT-IN-SUIT

20. The '821 Patent generally claims novel and non-obvious systems and methods used with deposit sweep products which generally allow a source banking institution (like a bank or broker-dealer with an affiliated bank) to retain funds at one or more affiliated banks, but also allow for excess FDIC insurance for customers by using non-affiliated banks.

21. Island IP, a wholly-owned subsidiary of Double Rock, is the owner of all rights, title and interest in the '821 Patent.

#### DEFENDANTS' INFRINGING PRODUCTS

22. Defendant Clearview operates, within the United States, a money management program designated as the “Insured Deposit Program” (“IDP”).

23. As reflected at Clearview's website, Defendant Clearview's IDP includes as program banks, BB&T Financial FSB and Defendant BB&T, which are affiliated with Defendants Clearview and S&S, as well as other program banks, such as Associated Bank, NA, Deutsche Bank Trust Company Americas, East West Bank, Modern Bank, NA, Orrstown Bank, Penn Security Bank and Trust Company, Republic Bank, Tideland Bank, Tristate Capital Bank, Umpqua Bank, Union Bank of CA and Zions First National Bank, which are not affiliated with Clearview. Exhibit B is a true and correct copy of the webpage [www.clearviewcs.com/downloads/mmktrates/clearviewratesii.htm](http://www.clearviewcs.com/downloads/mmktrates/clearviewratesii.htm) (as downloaded on April 25, 2011).

24. As reflected at Scott & Stringfellow's website, Defendant S&S operates, within the United States, the IDP. Exhibit C is a true and correct copy of the webpage [www.scottstringfellow.com/ss//idp.asp](http://www.scottstringfellow.com/ss//idp.asp) (as downloaded on April 25, 2011).

25. Upon information and belief, Defendant Clearview acts as the clearing firm for the IDP offered by S&S.

26. As reflected in Exhibit C, Defendant S&S' IDP includes as program banks, BB&T Financial FSB and Defendant BB&T, which are affiliated with Defendants Clearview and S&S, as well as other program banks, such as Tristate Capital Bank, Penn Security Bank and Trust Company, Tideland Bank, East West Bank, Provident Bank, Modern Bank, NA, Umpqua Bank, Associated Bank, Deutsche Bank Trust Company Americas, Union Bank, NA, Orrstown Bank, and Zions First National Bank, which are not affiliated with S&S.

27. As reflected at BB&T's website, Defendant BB&T operates, within the United States, a money management program designated as the "Insured Deposit Program" ("IDP"). Exhibit D is a true and correct copy of a collection of different portions of the webpage

[www.bbt.com/business/products/institutional-services/insured-deposit.html](http://www.bbt.com/business/products/institutional-services/insured-deposit.html) (as downloaded on April 25, 2011).

28. As further reflected at BB&T's website, Defendant BB&T's IDP includes itself as a program bank, as well as other program banks, such as Access National Bank, American National Bank, Androscoggin Savings Bank, Associated Bank NA, Bank of America, NA, Continental Bank, Deutsche Bank and Trust Company, NA, East West Bank, First State Bank, Flathead Bank, Frontier Bank, Gotham Bank of NY, Herald National Bank, Israel Discount Bank of NY, Metropolitan Bank, Modern Bank, NA, New York Community Bank, One Bank & Trust NA, Plains Capital Bank, Pulaski Bank, RBS Citizens, NA, Savannah Bank NA, SouthWest Bank, TotalBank, Tristate Capital Bank, Umpqua Bank, Union Bank of CA, Vectra Bank Colorado, NA, Wells Fargo Bank NA, Western Security Bank, and Zions First National Bank, which are not affiliated with BB&T. Exhibit E is a true and correct copy of the webpage [www.bbt.com/bbt/business/products/institutional-services/docs/IDP%20Participating%20Banks.pdf](http://www.bbt.com/bbt/business/products/institutional-services/docs/IDP%20Participating%20Banks.pdf) (as downloaded on April 25, 2011).

29. As reflected in Exhibit E, Access National Bank has offices in Reston, Virginia, within this district.

30. As reflected in the Terms and Conditions for the BB&T IDP available at the BB&T website, BB&T and its affiliates may participate as program banks in the BB&T IDP. Exhibit F is a true and correct copy of the terms and conditions posted at [www.bbt.com/bbt/business/products/institutional-services/insured-deposit-terms-conditions.html](http://www.bbt.com/bbt/business/products/institutional-services/insured-deposit-terms-conditions.html) (as downloaded on April 25, 2011).

31. Upon information and belief, Defendants direct or control Deutsche Bank Trust Company of Americas ("Deutsche") and/or Total Bank Solutions LLC ("TBS") which act as

Defendants' agents, to assist in the administration of and/or provide certain services with respect to the operation of the IDPs.

32. Upon information and belief, Defendants in their IDPs have withdrawn or caused to be withdrawn funds from an FDIC-insured and interest-bearing account at one or more banks within their infrastructure more than six times during a month period.

33. Upon information and belief, the computer systems used to operate the IDPs, under the direction or control of Defendants, use the method claimed in at least Claim 19 of the '821 Patent and the system claimed in at least Claim 28 of the '821 Patent.

34. Upon information and belief, Defendants put the systems used to operate the IDPs into service and obtain benefit from the systems.

35. Defendants do not have a license or other authorization from Island IP to practice the claims set forth in the '821 Patent.

36. Similarly, Deutsche and TBS do not have a license or other authorization from Island IP to practice the claims set forth in the '821 Patent.

#### COUNT ONE

##### (Patent Infringement by Defendants of the '821 Patent)

37. Island IP incorporates by reference as if fully set forth herein the averments contained within the preceding paragraphs.

38. Defendants infringe, literally and/or under the doctrine of equivalents, at least Claims 19 and 28 of the '821 Patent, in violation of Title 35, United States Code section 271 through one or more of the following: (1) the manufacture, use, sale, and/or offer for sale of the inventions claimed in the '821 Patent; and/or (2) the active inducement of another, including at least Deutsche and/or TBS, to infringe the '821 Patent.



39. Since at least the filing of this Complaint, Defendants will be aware of the '821 Patent, and Island IP's contention that the continued operation of the IDPs, as operated as of that time, constitutes infringement of the '821 Patent.

40. Defendants have been aware of Double Rock's insured deposit product operating in accordance with the '821 Patent.

41. Unless enjoined by this Court, Defendants will continue their acts of infringement causing substantial and irreparable harm to Island IP.

42. Island IP is suffering and will continue to suffer damages as the direct and proximate result of Defendants' infringement of the '821 Patent.

43. Island IP is suffering and will continue to suffer irreparable injury as the direct and proximate result of Defendants' infringement of the '821 Patent.

#### PRAYER FOR RELIEF

WHEREFORE, Island IP requests judgment against Defendants as follows:

A. That the Defendants be held liable for infringement of at least Claims 19 and 28 of the '821 Patent.

B. That a permanent injunction issue against Defendants, their officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '821 Patent, including without limitation the further operation of the IDPs.

C. That the Court order Defendants to pay to Island IP damages adequate to compensate Island IP for the acts of infringement of Defendants together with interest and costs, pursuant to 35 U.S.C. § 284.



D. That the Court award such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

44. Island IP hereby requests a trial by jury.

Respectfully submitted,

Dated: Prince William, Virginia  
April 26, 2011

By   
E. Andrew Burcher, VSB #41310

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